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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/748,002

12/27/2000

Fumito Takemoto

2091-0225P

3608

2292

7590

08/27/2004

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EXAMINER

PENDERGRASS, KYLE M

ART UNIT

PAPER NUMBER

2624

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/748,002

Applicant(s)

TAKEMOTO, FUMITO

Examiner

Kyle M Pendergrass

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 & 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Bar et al., (US 5,506,946).

Regarding claim 2, which is representative of claims 1 & 3, Bar et al., teaches an image processing apparatus comprising a display means for image display (column 4, lines 29-30, fig. 1, display device 101); area specification means for specifying a first area having a desired color-tone in a displayed image (column 5, lines 22-27, & column 10, lines 35-47) and a second area in the image or in another image (column 5, lines 9-16, 21-22, and column 6, lines 44-52); and conversion means for converting a color-tone of desired area including the second area into the color-tone of the first area (column 10, lines 56-58).

Regarding claim 1, see the method steps shown in figure 3e of Bar et al.

Regarding claim 3, see implementation of the method of figure 3e by computer of Bar et al., discussed in column 10, lines 35-58.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Shiau (US 5,515,172).

Regarding claim 1, Shiau (US 5,515,172) teaches an image processing method comprising the steps of: receiving specification of a first area ("color data", column 5, line 11) having a desired color-tone ("source color" column 5, line 20, & " $h_d$ ,  $C^*_d$ ,  $L^*_d$ " column 8, lines 33-36) in a displayed image; receiving specification of a second area ("color data", column 5, line 10) in the image or in another image; and changing a color-tone of desired area including the second area ("source color" column 5, lines 19-20, & " $h_s$ ,  $C^*_s$ ,  $L^*_s$ " column 8, lines 33-36) into the color-tone of the first area (column 5, lines 19-20, lines 63-64 & Fig 9, columns 12 & 13, lines 66-67 & 1-27, respectively).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kay et al. (US 6,377,269 B1) and Shiau (US 5,515,172).

Regarding claim 2, Kay et al. (US 6,377,269 B1) teaches an image processing method comprising: display means for image display (computer monitor & camera, Fig 10-14); and area specification means for specifying a first area having a desired color-tone in an image displayed on the display means and a second area in the image or in another image (column 10, lines 1-4), but does not teach conversion means for converting a color-tone of a desired area including the second area into the color-tone of the first area.

However, Shiau (US 5,515,172) teaches conversion means for converting a color-tone (Fig 9, columns 12 & 13, lines 66-67 & 1-27, respectively).

Accordingly, it would have been obvious to one of ordinary skill in the art to have used the color-tone conversion taught by Shiau in the image processing method of Kay et al. The color-tone conversion teachings of Shiau would have broadened the composition abilities of a user in the Kay et al. system by improving image quality control with the hue, lightness and chroma selection functionality. Such additional functionality would reduce effects of inconsistent lighting from image capture. The additionally functionality would also lower visible artifacts.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyle Pendergrass whose telephone number is (703) 306-3445. The examiner can normally be reached on Monday-Friday 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, David K. Moore can be reached on (703) 305-7452. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application of proceeding should be directed to the receptionist whose telephone number is (703) 305-9700.



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